

1 DAVID R. ZARO (BAR NO. 124334)
2 JOSHUA A. DEL CASTILLO (BAR NO. 239015)
3 ALLEN MATKINS LECK GAMBLE
4 MALLORY & NATSIS LLP
5 865 South Figueroa Street, Suite 2800
6 Los Angeles, California 90017-2543
7 Phone: (213) 622-5555
8 Fax: (213) 620-8816
9 E-Mail: dzaro@allenmatkins.com
10 jdelcastillo@allenmatkins.com

11 Attorneys for Receiver
12 THOMAS A. SEAMAN

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 BRUCE J. STANIFORTH,,
16

17 Plaintiff,

18 v.

19 TOTAL WEALTH MANAGEMENT,
20 INC.; et al.,

21 Defendants.

Case No. 3:14-cv-01899 GPC (JLB)

JOINT STATUS REPORT RE:
RECEIVERSHIP ACTION STYLED
SEC v. TOTAL WEALTH
MANAGEMENT, INC., ET AL.

Judge: Hon. Gonzalo P. Curiel

22 **TO THIS HONORABLE COURT, ALL PARTIES, AND THEIR**
23 **COUNSEL OF RECORD:**

24 **PLEASE TAKE NOTICE THAT**, in accordance with this Court's
25 November 30, 2017 order directing the parties to file a status report regarding the
26 status of the related Securities and Exchange enforcement and receivership action
27 styled SEC v. Total Wealth Management, Inc., et al., USDC, S.D. Cal. Case No. 15-
28 cv-226 BAS (MSB) (the "Receivership Case"), Thomas A. Seaman (the "Receiver")
and plaintiff Bruce J. Staniforth, hereby submit the following Joint Status Report:

I. RELEVANT STATUS.

A. Status Of Receivership Case And Litigation Stay.

The Receivership Case remains pending before the Honorable Cynthia
Bashant, and the litigation stay imposed pursuant to Judge Bashant's February 12,

1 2015 "(1) Preliminary Injunction, Appointment of a Permanent Receiver, and
 2 Related Orders; and (2) Order Vacating Hearing on Preliminary Injunction" (the
 3 "Appointment Order"¹) (Receivership Case ECF. No. 8), remains in place. This
 4 Court applied the litigation stay to the of the above-entitled action on May 12, 2015,
 5 except as to non-receivership Defendants. (ECF. No. 57.)

6 **B. Receiver's Asset Recovery Efforts.**

7 As of the submission of his Eighth Interim Report and Petition for
 8 Instructions (Receivership Case ECF No. 246), the Receiver held approximately
 9 \$3,353,316, in cash, for the administration and benefit of the entities in receivership.
 10 His efforts to recover additional assets continue, most notably in the form of a
 11 tentative settlement of the action styled Seaman v. Private Placement Capital Notes
 12 II, LLC, et al., USDC, S.D. Cal. Case No. 16-cv-0578 BEN (DHB) (the "PPCN
 13 Action") which, if approved in the Receivership Case and subsequently performed,
 14 is expected to result in the Receiver's recovery of at least another \$1 million. As of
 15 the date of this Joint Status Report, the proposed settlement of the PPCN Action has
 16 been submitted for Court approval in the Receivership Case (see, e.g., Receivership
 17 Case ECF No. 256).

18 A settlement in the action styled Seaman v. Lively, et al., San Diego Superior
 19 Court Case No. 37-2016-00003644-CU-PN-CTL (the "Negligence Action"), which
 20 was previously referenced as an anticipated source of receivership recoveries was
 21 approved in the Receivership Case (see, e.g., Receivership Case ECF No. 183), with
 22 all funds paid from that settlement ultimately awarded to the Receiver (see
 23 Receivership Case ECF No. 229).

24
 25
 26
 27 ¹ As reflected in prior submissions to this Court, the litigation stay imposed by the
 28 Appointment Order applies only to those entities placed into receivership,
 including Total Wealth Management, Inc. and its subsidiaries and affiliated,
 including but not limited to Altus Capital Management, LLC (collectively, the
 "Receivership Entities").

At present, and the settlement funds from the Negligence Action having been paid over to the Receiver, the Receiver's principal asset recover effort relates to the pending settlement of the PPCN Action.

C. The Claims And Distribution Process.

In November 2016, the Receiver developed and proposed summary claims procedures whereby investors in and creditors of the Receivership Entities could submit claims for repayment against the Receivership Entities. (Receivership Case ECF. No. 124.) On February 27, 2017, the Court approved the Receiver's proposed claims procedures, and established a claims bar date of May 8, 2017. (Receivership Case ECF No. 137.) The Receiver thereafter completed his processing of approximately 300 claims, and developed his proposed treatment of the claims, which was statistically validated. Plaintiff Staniforth submitted a timely claim.

In August 2018, the Receiver sought Court approval of his proposed treatment of claims, which approval issued in the form of an Order: (1) Overruling Objection, (2) Establishing Allowed Claims, and (3) Approving Omnibus and Specific Claims Objections (the "Claims Order"), issued in the Receivership Case in September 2018. (See, e.g., Receivership Case ECF No. 230, 239, 240.) Since the issuance of the Claims Order, the Receiver has sought and secured Court approval for his proposed omnibus distribution plan, and completed a distribution in the aggregate amount of approximately \$2.8 million on allowed claims, including Plaintiff Staniforth's claim. (See, e.g., Receivership Case ECF Nos. 245, 248, 253.) Should the proposed settlement in the PPCN Action be approved and performed, the Receiver may recover additional funds from which to make a second and final distribution on allowed, priority claims.

II. CONCLUSION.

For the foregoing reasons, and particularly given the continued pendency of the Receivership Case, the Receiver's continuing asset recovery efforts, and the potential for a future distribution, the Receiver respectfully requests that this Court

1 continue its stay of the above-captioned matter pending further updates from the
2 Receiver, at least as to the Receivership Entities. Plaintiff Staniforth has no
3 objection.

4
5 Dated: September 17, 2019

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID R. ZARO
JOSHUA A. DEL CASTILLO

6
7
8 By: /s/ Joshua A. del Castillo
9 JOSHUA A. DEL CASTILLO
10 Attorneys for Receiver
THOMAS A. SEAMAN

11 Dated: September 17, 2019

CROSS LAW APC
OLEG CROSS

12
13 By: /s/ Oleg Cross
14 OLEG CROSS
15 Attorneys for Plaintiff
16 BRUCE J. STANIFORTH
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

Bruce J. Staniforth v. Total Wealth Management, Inc., et al.
 USDC, Southern District of California – Case No. 14-cv-1899 (GPC) (JLB)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

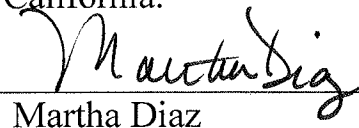
A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

**JOINT STATUS REPORT OF RE: RECEIVERSHIP ACTION STYLED
*SEC v. TOTAL WEALTH MANAGEMENT, INC., et al.,***

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **September 17, 2019**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Vincent Brown**
vince@vjblaw.com,vjblaw@gmail.com
- **Oleg Cross**
oleg@cplitigation.com
- **Michael Lawrence Gallo**
mgallo@sparerlaw.com,admin@sparerlaw.com
- **Alan W. Sparer**
asparer@sparerlaw.com,admin@sparerlaw.com
- **Joshua Andrew del Castillo**
jdelcastillo@allenmatkins.com

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **September 17, 2019** at Los Angeles, California.


 Martha Diaz